

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGIA MILES,

No. 2:23-cv-00827 DJC DB P

Plaintiff,

v.

STOHLMAN, et al.,

FINDINGS AND RECOMMENDATIONS

Defendants.

Plaintiff, Georgia Miles, proceeds without counsel and seeks relief under 42 U.S.C. § 1983. This matter was referred to the undersigned by Local Rule 302. See 28 U.S.C. § 636(b)(1). Plaintiff's complaint (ECF No. 1) is before the court for screening. The complaint's allegations do not state a claim. Because it clearly appears leave to amend would be futile, the undersigned recommends the complaint be dismissed without leave to amend.

I. In Forma Pauperis

Plaintiff seeks to proceed in forma pauperis. (ECF No. 2, 9.) "A district court may deny leave to proceed in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." Tripati v. First Nat'l Bank & Tr., 821 F.2d 1368, 1370 (9th Cir. 1987). On this basis, for the reasons set forth below, the undersigned will recommend plaintiff's application to proceed in forma pauperis be denied.

1 **II. Screening Requirement**

2 Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis
3 proceeding, and may order dismissal of the case if it is “frivolous or malicious,” “fails to state a
4 claim on which relief may be granted,” or “seeks monetary relief against a defendant who is
5 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); Lopez v. Smith, 203 F.3d 1122, 1126-27
6 (2000). A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
7 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
8 Cir. 1984). The court may dismiss a claim as frivolous if it is based on an indisputably meritless
9 legal theory or where the factual contentions are clearly baseless. Neitzke, 490 U.S. at 327.

10 Rule 8(a)(2) of the Federal Rules of Civil Procedure requires a short and plain statement
11 of the claim that shows the pleader is entitled to relief. Bell Atlantic Corp. v. Twombly, 550 U.S.
12 544, 555 (2007). In order to state a cognizable claim, a complaint must contain more than “a
13 formulaic recitation of the elements of a cause of action;” it must contain factual allegations
14 sufficient “to raise a right to relief above the speculative level.” Id., 550 U.S. at 555. The facts
15 alleged must “give the defendant fair notice of what the... claim is and the grounds upon which it
16 rests.” Erickson v. Pardus, 551 U.S. 89, 93 (2007) (quoting Twombly, 550 U.S. at 555). In
17 reviewing a complaint under this standard, the court accepts as true the non-conclusory
18 allegations of the complaint and construes the pleading in the light most favorable to the plaintiff.
19 See id.; Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

20 **III. Plaintiff’s Allegations**

21 Plaintiff alleges her son was kidnaped by police, held hostage, and trafficked by
22 informants. (ECF No. 1 at 3.) Plaintiff’s car, food, clothing, and other items were stolen and
23 vandalized. (Id.) Plaintiff’s remaining allegations are very difficult to decipher, but plaintiff
24 mentions her public defender, legal mail delays, retaliation, lockdowns, plaintiff’s son and
25 daughter, false charges, police brutality, rape, theft, embezzlement, sexual harassment, drug
26 withdrawals, and child abuse. (Id. at 4-5.)

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1 **IV. Discussion**

2 Plaintiff's claims are incomprehensible. Plaintiff also fails to make any specific
3 allegations against any individual defendant. The complaint does not present plausible factual
4 allegations or legally coherent theories of liability establishing a claim for relief, and should be
5 dismissed. See Denton v. Hernandez, 504 U.S. 25, 32-33 (1992) ("[A] court may dismiss a claim
6 as factually frivolous only if the facts alleged are 'clearly baseless,' a category encompassing
7 allegations that are 'fanciful,' 'fantastic,' and 'delusional.' ... [A] finding of factual frivolousness
8 is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible."
9 (internal citations omitted)); see also Neitzke v. Williams, 490 U.S. 319, 327-28 (1989). The
10 present claims should be dismissed on that basis.

11 If it is clear a complaint cannot be cured by amendment, the court may dismiss without
12 leave to amend. Cato v. United States, 70 F.3d 1103, 1105-06 (9th Cir. 1995); see also Lopez v.
13 Smith, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc). Here, the contents of the complaint are
14 sufficiently unintelligible that it is clear leave to amend would not result in a cognizable claim.

15 **V. Recommendation**

16 In accordance with the above, IT IS RECOMMENDED as follows:

- 17 1. Plaintiff's requests for leave to proceed in forma pauperis (ECF Nos. 2, 9) be DENIED.
18 2. The complaint be dismissed without leave to amend for failure to state a claim.

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days
21 after being served with these findings and recommendations, plaintiff may file written objections
22 with the court. Such a document should be captioned "Objections to Magistrate Judges Findings
23 and Recommendations."

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1 Plaintiff is advised that failure to file objections within the specified time may waive the
2 right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: February 9, 2024

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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